

## **Item SPR06-24 Response Form**

**Title:** Criminal Cases: Optional Guilty Plea Form for Felony Cases (approve form CR-101)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

☐ **Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, June 23, 2006
---

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,  
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action.*

Invitations to Comment SPR06-24

Title	Criminal Cases: Optional Guilty Plea Form for Felony Cases (approve form CR-101)
Summary	Proposed optional form CR-101, <i>Plea form, with explanation and waiver of rights – Felony</i> , is designed for use in felony cases where the defendant wishes to plead guilty or no contest.
Source	Criminal Law Advisory Committee
Staff	Joshua Weinstein 415-865-7688, joshua.weinstein@jud.ca.gov
Discussion	<p>Currently courts develop local plea forms, which vary county to county. This proposed form would offer an optional standardized plea form for state-wide use. As an optional form, courts are free to continue to use their own form, to modify this form to conform with local needs and practice, or to use this proposed form.</p> <p>The proposed form is for felony cases, and is designed for general use. While it does not contain every possible scenario in a guilty plea, it does include the general direct consequences of the plea. Additionally, the more common advisements and warnings are included. The form, however, does not contain advisements and warnings for every possible scenario or concern.</p> <p>The form includes sections for:</p> <ul style="list-style-type: none"> <li>• the charges and maximum possible punishment;</li> <li>• the terms of the plea agreement, if any;</li> <li>• the consequences of the plea;</li> <li>• the defendant’s right to an attorney and other constitutional and statutory rights;</li> <li>• waiver of rights and other considerations to be made before the plea;</li> <li>• the entry of the plea;</li> <li>• considerations after the plea, such as the date for the defendant to surrender; and</li> <li>• mandatory warnings.</li> </ul>
	Attachment

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> BRANCH:		<b>FOR COURT USE ONLY</b> <b>DRAFT 10</b> <b>03-21-06</b> (updated 4/12/06) <i>*not checked against style guide yet</i>
<b>PEOPLE OF THE STATE OF CALIFORNIA vs.</b> DEFENDANT:		
<b>PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS - FELONY</b>		CASE NUMBER:

**INSTRUCTIONS:**

- (1) Fill out this form if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) On page 7, sign and date the form under "DEFENDANT'S STATEMENT."
- (4) Keeping in mind that the court cannot give legal advice, if you have any questions about anything in this form, ask your attorney or the judge.

1. **CHARGES AND MAXIMUM TERM:** I want to plead guilty or no contest ("nolo contendere") to the charges and allegations listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading not guilty or we contest are listed below.

COUNT	CHARGE(S) (SECTION & DESCRIPTION)	YEARS/MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, & SPECIAL ALLEGATIONS (SECTION & DESCRIPTION)	YEARS/MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

2. **PLEA AGREEMENT:** I understand that I must tell the Court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the Court.

My attorney, the Court, or the prosecutor has explained to me that if I plead guilty or no contest to the charge(s) and admit the allegations listed above, the Court will sentence me as follows:

**a. State Prison** (or the California Youth Authority) for:

- ☐ (1) \_\_\_\_\_ years and \_\_\_\_\_ months or  
☐ (2) not less than \_\_\_\_\_ years and \_\_\_\_\_ months and/or not more than \_\_\_\_\_ years and \_\_\_\_\_ months.  
☐ (3) Other: (specify):

INITIALS

**b. Probation** for \_\_\_\_\_ years under conditions to be set by the Court, including:

- ☐ \_\_\_\_\_ days in the **county jail** or  
☐ up to \_\_\_\_\_ days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program if ordered by the Court, may cause the Court to send me to **state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in Item 1.

PEOPLE OF THE STATE OF CALIFORNIA vs.

CASE NUMBER:

DEFENDANT:

c. **Narcotics Addiction Confinement:**

I understand that if the Court finds that I am addicted to or in immediate danger of becoming a narcotics addict, the Court may send me to a narcotics detention, treatment and rehabilitation facility for up to the amount of time I would otherwise have served in prison.

☐d. **Open Plea:**

- ☐ I understand the maximum and minimum sentence for the charges and allegations set forth on Page 1. No one has made any other promises to me about what sentence the Court may order.
- ☐ I understand that I am not eligible for probation.
- ☐ I understand that I will not be granted probation unless the Court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

☐e. **Restitution, Statutory Fees, and Assessments:**

I understand that: the Court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the Court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

☐

- ☐ (1) \$ \_\_\_\_\_ to the Victim Restitution Fund (between \$200 and \$10,000);
- ☐ (2) \$ \_\_\_\_\_ restitution to actual victim(s);
- ☐ (3) \$ \_\_\_\_\_ restitution to the State of California, Victims of Crime Fund;
- ☐ (4) \$ \_\_\_\_\_ court security fees;
- ☐ (5) \$ \_\_\_\_\_ other (specify): \_\_\_\_\_;
- ☐ (6) \$ \_\_\_\_\_ other (specify): \_\_\_\_\_;
- ☐ (7) an (additional) amount to be determined by the Court at sentencing or such other hearing as the Court may set.

f. **Parole Revocation or Probation Revocation Fine:**

I understand that if I am sentenced to **state prison**, the Court **will** impose a parole revocation fine, which will be collected only if my parole is later revoked. I also understand that if I am granted probation, the Court **will** impose a probation revocation fine, which will be collected only if my probation is later revoked.

☐g. **Dismissal of Other Counts:**

I understand that, as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

☐

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

☐h. **Other Terms (specify):**☐


---



---



---



---

PEOPLE OF THE STATE OF CALIFORNIA vs.

CASE NUMBER:

DEFENDANT:

**3. CONSEQUENCES OF MY PLEA:****a. No Contest ("Nolo Contendere") Plea:**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

☐**b. Parole:**

I understand that if I am sentenced to **state prison** or a **narcotics treatment facility**:

- (1) I will be placed on parole for up to \_\_\_\_\_ years after my release,  
 (2) If I violate any of the terms or conditions of my parole, I can be returned to **state prison** for up to one year for each violation, up to a maximum of \_\_\_\_\_ years, and  
 (3) If I abscond from parole supervision, this can extend the total time of parole supervision.

☐**c. Effect of Conviction on Other Cases:**

I understand that a conviction in this case may constitute a violation of any other current grant of parole or probation in any other case and that I may receive additional punishment as a result of that violation.

☐**d. Registration:**

I understand that I will be required to register with my local police agency or Sheriff's Department as:

☐ an arson offender

☐ a gang member

☐ other (specify): \_\_\_\_\_

☐ a narcotics offender

☐ a sex offender

☐

and that if I fail to register or keep my registration current for any reason, new felony criminal charges may be filed against me. I understand that registration as a sex offender is a life-long requirement the police or Sheriff's Department in the city or county in which I reside within five days of my birthday and within five days of any address change.

**e. Prints and DNA Samples:**

I understand that I must provide biological samples and prints for identification purposes, including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law, and that failure to do so constitutes a new criminal offense.

☐**f. Serious or Violent Felony:**

☐ I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.

☐ I understand that jail or prison conduct/work-time credit I may accrue will not exceed 15%.

☐ I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20% of the total term of imprisonment.

☐ I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count \_\_\_\_\_ is such an offense.

☐**g. Prior Prison Term**

I understand that if I am sentenced to prison, the penalty for any future felony conviction may be increased as a result of my prison term in this case.

☐

PEOPLE OF THE STATE OF CALIFORNIA vs.	CASE NUMBER:
DEFENDANT:	

#### h. Driver's License and Vehicle Forfeiture:

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the Court or the Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

☐

#### i. Immigration Consequences:

I understand that if I am not a citizen of the United States, my plea of guilty or no contest may, or, with certain offenses, **will** result in my deportation, exclusion from re-entry to the United States, and denial of naturalization and amnesty, and that the appropriate consulate may be informed of my conviction. The offenses that **will** result in such immigration action include, but are not limited to, an aggravated felony, conspiracy, a controlled substance offense, a firearm offense, and, under certain circumstances, a moral turpitude offense.

☐

#### j. Firearms:

I understand that federal and state law prohibit a convicted felon from possessing firearms for life.

☐

#### k. Other Consequences (specify):

---



---



---



---

☐

#### 4. RIGHT TO AN ATTORNEY:

I understand that I have the right to be represented by an attorney of my choice throughout the proceedings, and, if I cannot afford to hire one, the Court will appoint an attorney to represent me at no cost.

☐

I understand that there are dangers and disadvantages to giving up my right to an attorney and that it is almost always unwise to represent myself. The Court will not help me, give me special attention or treat me any differently from an experienced attorney.

☐

**I hereby give up my right to be represented by an attorney.**

☐

#### 5. OTHER CONSTITUTIONAL RIGHTS:

I understand that I am entitled to each of the following rights as to the charges listed in Item 1 (on Page 1):

##### a. Right to a Jury Trial:

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.

☐

##### b. Right to a Court Trial:

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge were convinced beyond a reasonable doubt that I am guilty.

☐

##### c. Right to Confront and Cross-Examine Witnesses:

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

☐

##### d. Right to Remain Silent and Not to Incriminate Myself:

I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

☐

PEOPLE OF THE STATE OF CALIFORNIA vs.	CASE NUMBER:
DEFENDANT:	

**e. Right to Produce Evidence and to Present a Defense:**

I understand that I have a right to present evidence and to have the Court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

☐

**6. BEFORE THE PLEA:**

**a. Discussion with My Attorney:**

**Before entering this plea, I have had a full opportunity to discuss the following with my attorney:**

- (1) the facts of my case;
- (2) the elements of the charged offenses, prior convictions, enhancements and special allegations;
- (3) any defenses that I may have;
- (4) my constitutional and statutory rights and waiver of those rights;
- (5) the consequences of this plea; and
- (6) anything else I think is important to my case.

☐

**b. Questions:**

I have no further questions of the Court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

☐

**c. Stipulation to Commissioner:**

I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

☐

**d. Medications/Controlled Substances:**

I am not taking any medication that affect my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs and am not suffering from any medical condition, except for the following: \_\_\_\_\_

☐

**e. Discovery of New Facts:**

I understand that the plea agreement in Item 2 (on Pages 1 and 2) is based on the facts before the Court, and if the Court discovers new facts, such as an additional prior felony conviction not listed on this form, the Court may refuse to accept the plea agreement. If the court discovers new facts and refuses to accept this plea agreement, I understand that I will be allowed to withdraw my plea.

☐

**7. STATUTORY RIGHT TO A PRELIMINARY HEARING:**

I understand that, before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence, and the Court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

☐

**I give up my right to a preliminary hearing and the constitutional rights listed in Item 5, above.**

**8. WAIVER OF CONSTITUTIONAL RIGHTS:**

**I give up, for each of the charges and allegations listed in Item 1 (on Page 1) my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.**

☐

PEOPLE OF THE STATE OF CALIFORNIA vs.

CASE NUMBER:

DEFENDANT:

**9. THE PLEA:**

I freely and voluntarily plead ☐ GUILTY ☐ NO CONTEST to the charges listed in Item 1 (on Page 1) and admit the allegations listed in Item 1 (on Page 1) understanding that this plea and admission will lead to the penalties listed in Item 2 (on Pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats, used any force against me, my family or loved ones, or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. I understand that the Court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offense(s) under the facts of the case. I offer to the Court the following as the basis for my plea of guilty or no contest and any admissions:

(1) I agree that the Court may consider the following as proof of the factual basis for my plea:

- ☐ Preliminary hearing transcript  
☐ Police report  
☐ Probation report  
☐ Welfare investigator's declaration  
☐ Court documents regarding any alleged prior offenses  
☐ Other documents (specify): \_\_\_\_\_  
☐ (Specify facts): \_\_\_\_\_

or (2) I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea). (*People v. West* (1970) 3 Cal.3d 595.)

**10. AFTER THE PLEA:****a. Surrender:**

I understand that the Court is allowing me to surrender at a later date to begin serving time in custody. I agree that if I fail to appear on the date set for surrender without a legal excuse, my plea will become an "open plea" to the Court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

**b. Sentencing Court:**

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge or commissioner may sentence me.

**c. Sentencing Date:**

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to a later date.

**11. MANDATORY WARNING:**

I understand that if I am charged with violating Vehicle Code section 23103, as specified in 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

**You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving, someone is killed, you can be charged with murder.**



PEOPLE OF THE STATE OF CALIFORNIA vs.  DEFENDANT:	CASE NUMBER:
---	--------------

---

**DEFENDANT'S STATEMENT**


---

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charge(s), possible defenses, and the effects of any prior convictions, enhancements and special allegations have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

---

**DEFENDANT'S SIGNATURE**


---

**DATE**


---

**ATTORNEY'S STATEMENT**


---

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his/her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charge(s), the effect of any prior convictions, enhancements and special allegations, and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to ☐ police report ☐ preliminary hearing transcript ☐ probation report ☐ other (specify): \_\_\_\_\_ . (*People v. West* (1970) 3 Cal.3d 595.)

---

**ATTORNEY'S SIGNATURE**


---

**DATE**


---

**INTERPRETER'S STATEMENT**


---

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below. The defendant stated that he/she understood the contents on the form and then initialed and signed the form.

Language: ☐ Spanish ☐ Other (specify): \_\_\_\_\_

---

**INTERPRETER'S SIGNATURE**


---

**DATE**


---

**INTERPRETER'S NAME — TYPED OR PRINTED**


---



---

**COURT'S FINDINGS AND ORDER**


---

The Court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

- The defendant has read or has had read to him/her and understands each of the initialed items in this form.
- The defendant understands the nature of the crime(s) and allegation(s) listed in Item 1 (on Page 1) and the consequences of the plea and any admissions.
- The defendant expressly, knowingly, understandingly, and intelligently waives his/her constitutional and statutory rights.
- The defendant's plea, admissions and waiver of rights are made freely and voluntarily.
- A factual basis exists for the plea and admissions or the defendant is pleading pursuant to a plea bargain under *People v. West*.

The Court accepts the defendant's plea, admissions and waiver of rights, and the defendant is hereby convicted based thereon. It is ordered that this document be filed with the Court's records of this case and that the defendant's plea, admissions and waiver of rights be accepted and entered in the minutes of this Court.

---

**JUDGE'S SIGNATURE**


---

**DATE**